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PART IV-C

**Statutory Rules and Orders (Other than those published in Parts I, I-A and I-L)
made by Statutory Authorities other than the Government of Gujarat
including those made by the Government of India, the High Courts, the
Director of Municipalities, the Commissioner of Police, the Director of
Prohibition and Excise, the District Magistrates and the Election
Commission, Election Tribunals, Returning Officers and other
authorities under the Election Commission.**

BY THE HIGH COURT OF GUJARAT AT AHMEDABAD

NOTIFICATION

No.C.2001/93

In exercise of the powers conferred under Article 227 of the Constitution of India, the High Court of Gujarat makes following amendments in Chapter I, II, IV, VI of the Criminal Manual 1977, (hereinafter referred as "Manual") so as to come into force with effect from date of notification published in Government Gazette:-

1. After the Rule 11 of **Chapter -I** of the Manual, the following **Rule 11A** shall be inserted, namely:—

11A. ADVICE DURING INVESTIGATION

The State Governments shall appoint advocates, other than Public Prosecutors, to advise the Investigating Officer during investigation.

2. After the Rule 25 of **Chapter II**, of the Manual, the following **Rule 25A** shall be inserted, namely:—

25A. TIME FOR DECIDING REGULAR/ANTICIPATORY BAIL

(1) *The application for bail in non- bailable cases must ordinarily be disposed off within a period of 3 to 7 days from the date of first hearing. If the application is not disposed off within such period, the Presiding Officer shall furnish reasons thereof in the order itself. Copy of the order and the reply to the bail application or status report (by the police or prosecution) if any, shall be furnished to the accused and to the accused on the date of pronouncement of the order itself. Bail order shall be furnished to the prison concerned and the prison authorities shall furnish the bail order to the accused.*

(2) *The Presiding Officer may, in an appropriate case in its discretion insist on a statement sic shall have the power to call for such statement to be filed by the prosecutor in charge of the case.*

3. In the **Rule 81 Chapter IV** of the Manual, the following explanation shall be inserted, namely:

Explanation: The list of statements, documents, material objects and exhibits shall specify statements, documents, material objects and exhibits that are not relied upon by the Investigating Officer.

4. The **Rule 92 of Chapter IV** of the Manual, shall stand substituted as follows:

92. DIRECTIONS FOR EXPEDITIOUS TRIAL.

- (1) *In every enquiry or trial, the proceedings shall be held as expeditiously as possible, and, in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded. (Section 309(1) Cr.P.C.). For this purpose, at the commencement, and immediately after framing charge, the court shall hold a scheduling hearing, to ascertain and fix consecutive dates for recording of evidence, regard being had to whether the witnesses are material, or eyewitnesses, or formal witnesses or are experts. The court then shall draw up a schedule indicating the consecutive dates, when witnesses would be examined; it is open to schedule recording of a set of witness' depositions on one date, and on the next date, other sets, and soon. The court shall also, before commencement of trial, ascertain if the parties wish to carry out admission of any document under Section 294, and permit them to do so, after which such consecutive dates for trial shall be fixed.*
- (2) *After the commencement of the trial, if the court finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable. If witnesses are in attendance no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded, in writing. (Section 309(2) Cr.P.C.).*
- (3) *Sessions cases may be given precedence over all other work and no other work should be taken up on sessions days until the sessions work for the day is completed. A Sessions case once posted should not be postponed unless that is unavoidable, and once the trial has begun, it should proceed continuously from day today till it is completed. If for any reason, a case has to be adjourned or postponed, intimation should be given forthwith to both sides and immediate steps be taken to stop the witnesses and secure their presence on the adjourned date.*

5. After the Rule 144 of Chapter VI of the Manual, the following **Rule 144A** shall be inserted, namely:—

144A. RECORDING OF EVIDENCE: FORMAT OF WITNESSES

- (1) *The deposition of each witness shall be recorded dividing it into separate paragraph assigning paragraph numbers.*
- (2) *Prosecution witnesses shall be numbered as PW-1, PW-2, etc. in seriatim. Similarly, defence witnesses shall be numbered as DW- 1, DW-2, etc. in seriatim. The Court witnesses shall be numbered as CW-1, CW-2, etc. in seriatim.*

Provided further that where there are more than one accused in a given trial, in order to identify as to which accused has produced a particular witness, the concerned witness be described as defence witness, followed by the serial number of accused in the police report (i.e., that u/s 173) and thereafter serial number of the witness concerned. For instance, if the serial number of accused in the charge sheet is 3 (Three) and serial number of witness is 5 (Five), then, the said defence witness shall be described as DW-3/5.

6. In the **Rule 148 of Chapter VI** of the Manual,

- (i) In the Rule 148.(2), after the words “as provided in section 275 and section 277, Criminal Procedure Code 1973”, and before words “All the relevant and admissible answers”, insert the following portion namely:

“However, the Presiding Officer may, wherever necessary, record the deposition in the question and answer format.”

- (ii) After the **Rule 148.(2)**, following proviso shall be inserted, namely:—

Provided that, in case the language of deposition is a language other than English or the language of the State, the Presiding Officer shall, for the purpose of recording the deposition, translate the Oral Testimony, simultaneously either himself or through a competent translator, in English.

(iii) after the **Rule 148.(2)** of the Manual, the following **sub-Rule (3)** shall be inserted, namely:—

148.(3) A translator shall be made available in every Court establishment and Presiding Officers shall be trained in the local languages, on the request of the Presiding Officer.

7. In the **Rule 149** of **Chapter VI** of the Manual,

(i) The Rule 149, be renumbered as **Rule 149.(1)**.

(ii) In the **Rule 149.(1)**, amendments be carried out substituting the words appearing after the words “by an officer of the court appointed by him in this behalf”, and before the words “All the relevant and admissible”, as under :

Ordinarily, such evidence be taken down in the form of narrative, but the Presiding Judge may, in his discretion, take down or cause to be taken down, the whole or any part of such evidence in the form of a question and answer format, in the language of the court i.e. Gujarati, as provided in sections 276 and 277, Code of Criminal Procedure, 1973.

(iii) After the **sub-Rule 149.(1)** the following proviso shall be inserted, namely:—

Provided that, in case the language of deposition is a language other than English or the language of the State, the Presiding Officer shall, for the purpose of recording the deposition, translate the Oral Testimony, simultaneously either himself or through a competent translator, in English.

(iv) After **Rule 149.(1)**, the following **sub-Rule (2)** shall be inserted, namely:—

149.(2) A translator shall be made available in every Court establishment and Presiding Officers shall be trained in the local languages, on the request of the Presiding Officer.

8. In the **Rule 150** of **Chapter VI** of the Manual,

(i) After Rule 150.(1), the following **sub-Rule (1A)** shall be inserted, namely:—

150(1A). The record of depositions shall indicate the date of the chief examination, the cross examination and re-examination.

(ii) After the sub-Rule (2), the following **sub-Rules (3), (4), and (5)** shall be inserted, namely:—

150.(3) Hard copy of the testimony, recorded and duly signed to be a true copy by the Presiding Officer/Court Officer, shall be made available on the date of recording itself, free of cost against receipt to:

(i) the accused or an advocate representing the accused,

(ii) to the witness, and;

(iii) the prosecutor.

150.(4) Objections, during the recording of the evidence, by either the prosecution or the defence counsel, shall be taken note of and reflected in the evidence and decided immediately, in accordance with law, or, at the discretion of the learned Judge, at the end of the deposition of the witness in question.

150.(5) The name and number of the witness shall be clearly stated on any subsequent date, if the evidence is not concluded on the date on which it begins.

9. After the Rule 154 of **Chapter VI** of the Manual, the following **Rule 154A** shall be inserted, namely:—

154A. SUBSEQUENT REFERENCES TO ACCUSED, WITNESS, EXHIBITS AND MATERIAL OBJECTS IN DEPOSITION

(1) *After framing of charges, the accused, in subsequent depositions, shall be referred to only by their ranks in the array of accused in the charge and not by their names or other references, except whilst recording the identification by the witness(es) by the deponent.*

(2) *After recording the deposition of a witness, marking of the exhibits and material objects is over, while recording deposition of subsequent witnesses (including marking of Exhibit and Material Objects at the instance of such subsequent witness), such witness(es), exhibits and material objects shall be referred by their numbers and not by names or other references.*

- (3) Where witness cited in the complaint or police report are not examined, they shall be referred to by their names and the numbers allotted to them in the complaint or police report.
- 10. In the **Rule 155** of **Chapter VI** of the Manual, for the words “**may use a typewriter**”, the words “**shall use computer**”, shall be substituted.

- 11. After the Rule 155 of **Chapter VI** of the Manual, the following **Rule 155A** shall be inserted, namely:—

155A. AVOIDING SIMULTANEOUS RECORDING OF MULTIPLE TESTIMONIES:-

A Presiding Officer shall not record evidence in more than one case, or, record multiple testimonies in the same case, simultaneously.

- 12. After the **Rule 159 (1)** of **Chapter VI** of the Manual, the following **sub-Rule (1A)** shall be inserted, namely:—

159 (1A). REFERENCES TO STATEMENTS UNDER SECTION 161 AND 164 CRPC:

- (1) During cross examination, the relevant portion of the statements recorded under Section 161 Cr.P.C used for contradicting the respective witness shall be extracted. If it is not possible to extract the relevant part as aforesaid, the Presiding Officer, in his discretion, shall indicate specifically the opening and closing words of such relevant portion, while recording the deposition, through distinct marking.
- (2) In such cases, where the relevant portion is not extracted, the portions only shall be distinctly marked as prosecution or defence exhibit as the case may be, so that other in admissible portions of the evidence are not part of the record.
- (3) In cases, where the relevant portion is not extracted, the admissible portion shall be distinctly marked as prosecution or defence exhibit as the case may be.
- (4) The aforesaid rule applicable to recording of the statements under Section 161 shall mutatis mutandis apply to statements recorded under Section 164 of the Cr.P.C, whenever such portions of prior statements of living persons are used for contradiction/corroboration.
- (5) Omnibus marking of the entire statement under Section 161 and 164 Cr.P.C shall not be done.

- 13. After the Rule 159 of Chapter VI of the Manual, the following **Rule 159A** shall be inserted, namely:—

159 A. MARKING OF CONFESSORIAL STATEMENTS

The Presiding Officers shall ensure that only admissible portion of Section 8 or Section 27 Indian Evidence Act, 1872 is marked and such portion alone is extracted on a separate sheet and marked and given an exhibit number.

- 14. Substitute the Title of **Rule 161** of Chapter VI of the Manual as “*Exhibiting of material objects and evidence*” for the existing Title “*Exhibiting of Documents*” and the **sub-Rules (1) and (2)** shall be **renumbered as Rules (4) and (5)**, thereof, and following sub- Rules (1) to (3) shall be inserted as **Rule 161 (1) (2) and (3)** namely:—

161. Exhibiting of material objects and evidence

- (1) Prosecution exhibits shall be marked as Exhibit P-1, P-2, etc. in seriatim. Similarly, defence Exhibits shall be marked as Exhibit D-1, D-2, etc. in seriatim. The Court exhibit shall be marked as Exhibit C-1, C-2, etc. in seriatim.
- (2) To easily locate the witness through whom the document was first introduced in evidence, the exhibit number shall further show the witness number of such witness after the Exhibit number. If an exhibit is marked without proper proof, the same shall be indicated by showing in brackets (subject to proof).

Explanation 1: If Prosecution witness no. 1 (PW1) introduces a document in evidence, that document shall be marked as Exhibit P- 1/PW1. If proper proof is not offered for that document at the time when it is marked, it shall be marked as Exhibit P-1/PW1 (subject to proof). The Second document introduced by PW1 will be Exhibit P-2/PW1.

- (3) The Material objects shall be marked in seriatim as MO-1, MO-2 etc.

- 15. In the **Rule 179** of **Chapter VI** of the Manual,

- (i) After the sub-Rule(2), the following **sub-Rule 179(2A)** shall be inserted, namely:—

179 (2A). In the judgment the accused, witnesses, exhibits and material objects shall be referred to by their nomenclature or number and not only by their names or otherwise. Wherever, there is a need to refer to the accused or witnesses by their name, the numbers shall be indicated within brackets.

(ii) After the sub-Rule (4), the following **sub-Rule 179 (4A)** shall be inserted, namely:—

179 (4A). In compliance with Section 354 and 355 Cr. P.C., in all cases, the judgments shall contain:

(i). The point or points for determination,

(ii). The decision thereon, and

(iii). The reasons for the decision.

(iii) After the sub-Rule (6), the following **sub-Rule 179(7)** shall be inserted, namely:—

179(7). The judgment shall be written in paragraphs and each paragraph shall be numbered in *seriatim*. The Presiding Officers, may, in their discretion, organize the judgment into different sections.

16. After the Rules 179 of **Chapter VI** of the Manual, the following **Rule 179A**, shall be inserted, namely:—

Rule 179 A.

(1) Every judgment shall contain the following:-

I. Start with a preface showing the names of parties as per **FORM-A** to the Rules.

II. A tabular statement as per **FORM-B** to the Rules.

III. An appendix giving the list of prosecution witnesses, defence witnesses, Court witnesses, Prosecution Exhibits, Defence Exhibits and Court Exhibits and Material Objects as per **FORM-C** to the Rules. The aforesaid forms shall be as follows:

FORM – A

IN THE COURT OF..... Present:..... Sessions Judge [Date of the Judgment] [Case No...../2019] (Details of FIR/Crime and Police Station)	
Complainant	STATE OF..... OR NAME OF THE COMPLAINANT
REPRESENTED BY	NAME OF THE ADVOCATE
ACCUSED	1. NAME WITH ALL PARTICULARS (A1) 2. NAME WITH ALL PARTICULARS (A2)
REPRESENTED BY	NAME OF THE ADVOCATES

FORM – B

Date of Offence	
Date of FIR	
Date of Chargesheet	
Date of Framing of Charges	
Date of commencement of evidence	
Date on which judgment is reserved	
Date of the Judgment	
Date of the Sentencing Order, if any	

Accused Details:

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428, Cr.PC

FORM - C**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES****A. Prosecution**

		NATURE OF EVIDENCE
RANK	NAME	(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1		
PW2		

B. Defence Witnesses, if any:

		NATURE OF EVIDENCE
RANK	NAME	(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1		
DW2		

C. Court Witnesses, if any:

		NATURE OF EVIDENCE
RANK	NAME	(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW 1		
CW 2		

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**A. Prosecution:**

Sr. No	Exhibit Number	Description
1.	Exhibit P-1/PW 1	
2.	Exhibit P-2/PW 2	

B. Defence:

Sr. No	Exhibit Number	Description
1.	Exhibit D-1/DW 1	
2.	Exhibit D-2/DW 2	

C. Court Exhibits

Sr. No	Exhibit Number	Description
1.	Exhibit C-1/CW 1	
2.	Exhibit C-2/CW 2	

D. Material Objects:

Sr. No	Material Object Number	Description
1.	MO 1	
2.	MO 2	

17. After the Rule 179A of **Chapter VI** of the Manual, the following **Rule 179B** shall be inserted, namely:—

179B. *In case of conviction, the judgment shall separately indicate the offence involved and the sentence awarded. In case there are multiple accused, each of them shall be dealt with separately. In case of acquittal and if the accused is in confinement, a direction shall be given to set the accused at liberty, unless such accused is in custody in any other case.*

DATE: 20th MAY, 2022

(Sd/-) **Illigible**,
REGISTRAR GENERAL.

